

The Tribunals Service Criminal Injuries Compensation

We deal with appeals against decisions about compensation made by the Criminal Injuries Compensation Authority (the Authority).

We are separate and independent from the Authority.

We have not been involved in any earlier decisions about your case.

We consider your claim afresh.

This guide is to help you prepare for your appeal.

For a Welsh version - please ask our office or look on our website.

You may also wish to read:

- **The Criminal Injuries Compensation Scheme (the Scheme) and the Authority's Guide to the Scheme**
- **The Tribunal rules** -The First Tier Tribunal (Social Entitlement Chamber) Rules 2008
- and the further guidance referred to in this booklet

You can find links to these and our online DVD on our website www.cicap.gov.uk. Tell us if you need a paper copy of anything on our website.

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Contacts if you need help

- The Tribunals Service – Criminal Injuries Compensation. Contact details are on page 27. Office hours are 8.30am - 5pm. Our staff cannot provide legal advice.

The reference number for your appeal is the same as given to you by the Authority

Please give this number when you write or phone us

- ➡ Write to tell us if you change address or phone number
- ➡ Write to tell us if you change your representative

Otherwise, your appeal is likely to be delayed.

- The Victim Supportline –Victim Support’s national helpline is **0845 30 30 900** or find your local branch on www.victimsupport.org.uk Your local Victim Support group may be able to help with your appeal. They may also help you at your hearing by providing representation or moral support.
- Your local Citizens Advice Bureau (CAB) - www.citizensadvice.org.uk.
- Welfare Rights Solicitors - the Community Legal Service helpline or website can help find an advisor in your area www.clsdirect.org.uk or 0845 345 4345.

You do not need to be represented for your appeal.
Independent research has shown that the outcome of an appeal is not affected by representation.

Help for special needs



Please write and tell us if:

- **you do not speak or understand English easily**

We will provide an interpreter at no cost to you if you ask us. The Tribunal prefers you to have independent interpreter rather than a friend or family member and may adjourn your case if they consider that an independent interpreter is needed.

- **stairs or steps cause you difficulty, or if any other physical disability will cause you problems**

We try to make sure all venues have wheelchair access and toilets suitable for people with disabilities.

- **you have a hearing difficulty or use an induction loop or need someone to sign**

We will provide someone to sign for you at no cost to you. We have induction loops at most of our venues.

- **you have problems with your sight**

We can send you letters and guidance material in large print.

- **you have learning or reading difficulties**

You can bring someone with you to help, or we can provide a member of staff to help.

- **you cannot travel alone or need help at the hearing because of your special needs**

We will consider paying for your helper's reasonable travel expenses.

The Tribunal's role

The Tribunal must decide whether, under the Scheme, you are eligible to receive an award and if so, what compensation you are entitled to.

Eligibility

The Tribunal needs to be satisfied that:

- you were the victim of a criminal injury (paragraph 8 of the Scheme) and
- your injury was serious enough to reach the minimum award of £1,000.

The Tribunal may withhold or reduce an award if:

Delay

- you failed without delay to take all reasonable steps to inform the police or other appropriate body or person of the incident giving rise to your injury.

Non co-operation

- you failed to co-operate with the police or other authority to bring your assailant to justice.
- you failed to give reasonable assistance to the Authority or other body or person in connection with your application

Conduct

- your conduct before, during or after the incident makes an award in full or part inappropriate.

Character

- your character as shown by your unspent convictions or other evidence (even if unrelated to the incident in which you were injured) makes an award in full or part inappropriate.

The Tribunal's role - continued

The amount of compensation awarded

Under the Scheme there are two main types of compensation - tariff awards and financial loss.

Tariff Awards

The Scheme sets out the amount to be paid for different types of injury (the tariff award). The Scheme and the Authority's Guide to the Scheme include details of the tariff for each description of injury.

Financial claims - Loss of earnings and Special expenses

Loss of earnings or loss of earning capacity is not paid for the first 28 weeks of loss.

Special expenses include the costs of care, special equipment or costs associated with National Health Service treatment for the injury. They can only be paid if you have lost earnings or been incapacitated for more than 28 weeks. If so, they can then be paid from the date of the incident.

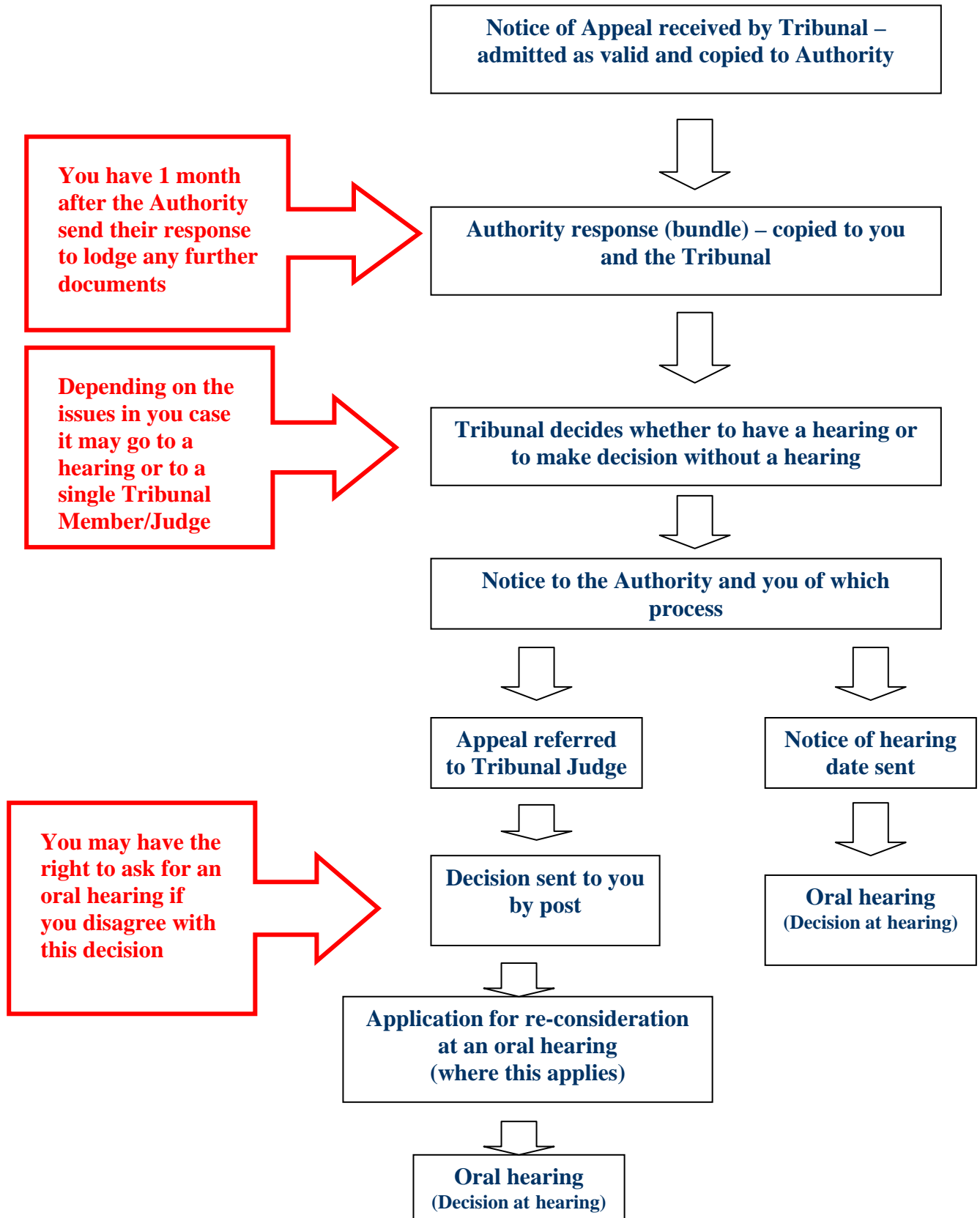


You must write and tell us and the Authority the basis of any financial claim within 1 month of sending your notice of appeal.

If you are making a claim for financial loss, you should read the Authority's 'guide to loss of earnings and special expenses'. You can obtain this guide from the Authority or their website at www.cica.gov.uk). You should also read the Tribunal's Procedural Statement on Financial loss on our website at www.cicap.gov.uk or on request to our office.

The Appeal Process - overview

For all criminal injury compensation appeals received by the Tribunal, the following procedure applies



The Appeal Process - first steps

We check that your appeal has been made correctly and deal with any application for an extension of time. We aim to do this within 5 days but it will take longer if you have made an application to extend the time for lodging your appeal.

When everything is in order we admit your appeal and send a copy of the appeal form and all documents attached to it to the Authority.

The Authority will send you a response including copies of all the documents relevant to your case they have gathered. They will also send us a copy.

The Tribunal Rules specify that the Authority must send their response as soon as reasonably practicable after they receive the appeal form. The Authority will aim to send their response within 6 weeks although some cases may take longer.

The Authority's response should also include your appeal form, any documents you sent with it, and the Authority's summary.

The summary gives:

- brief details of the incident
- details of your injuries
- the decisions made by the Authority
- the issues raised by the Authority – these could relate to your eligibility to receive an award (see page 5) or the amount of compensation you should receive
- the names of witnesses the Tribunal will invite to your oral hearing (if granted)

The Authority's response, together with any more information you or the Authority send us, are the documents which the Tribunal will consider when making its decision.

We will write to tell you whether your appeal will go to a hearing or whether it will be considered by a Tribunal Judge or Member. If there

is an issue about your eligibility for an award, a hearing will usually be necessary.

The Appeal Process - first steps (continued)

Where the only issue is the amount of compensation to be awarded and in some other cases a Tribunal Judge or Member will decide whether a hearing is necessary or whether your appeal can fairly be decided on the papers.

When you receive the Authority's response:



Check it carefully. Make sure it includes all the documents you have already provided to us and the Authority.



Write to tell us if it does not.

The next section of this booklet gives more information about the documents we will need in particular types of case.



If there are more documents you want us to consider, you must send them to us no later than one month after the date the Authority sent their response.



Keep a copy of any documents you send to us.

The Tribunal may decide not to take into account documents that have not been supplied promptly.



If you need more time, write to ask us for an extension of time.



Tell us why you need more time and how much longer you will need – a Tribunal Judge or Member will consider your application.



Remember – the Scheme states that you have to make out your case.

Documents necessary to decide your appeal

The following sections give information on the evidence the Tribunal will need to make a decision on your appeal. This will vary depending on whether there is an issue about your eligibility to receive an award or only the amount of compensation to be awarded.

Where Eligibility is an issue

Where your eligibility to receive an award is an issue (see page 6) we will decide this first at a hearing. The hearing panel will not go on to decide the level of compensation unless it is fair and just to do so on the documents then available.

This is only likely in the simplest of cases. More usually if the hearing panel agrees that you qualify for an award they will adjourn your appeal and give directions about the gathering of further evidence.

This means that it is not necessary to have all the medical evidence or documents to support any financial claim you are making for the first hearing.



Make sure your bundle contains all the evidence you want us to have about your eligibility to receive an award.

Where Eligibility is not an issue

If eligibility is not an issue in your case or we have already agreed that you are eligible to receive an award the following sections set out the documents we will need to decide the amount of compensation you should receive. This applies whether your appeal is to have a hearing or not.

Medical Evidence

You can be compensated **only** if your injuries are supported by medical evidence (unless you are only claiming for scarring).



Make sure your bundle contains all the medical evidence about your injuries and treatment and is up to date.



Write to tell us if it is not complete and, if possible, provide the further evidence.

Medical evidence may include records or letters from you GP, hospital doctor, consultant, or dentist and any other medical notes.

If you are claiming for psychological injury, *temporary mental anxiety* needs to be verified by your GP or other registered medical practitioner.

Anything more serious than *temporary mental anxiety* must have been diagnosed, or the prognosis made, by a psychiatrist or clinical psychologist and be supported by written evidence from the psychiatrist or clinical psychologist.

The Authority is responsible for obtaining (and paying fees) for all necessary medical and other specialist evidence. If you consider that further specialist evidence is required, you should write to ask the Authority to obtain it from one specialist jointly instructed by you and the Authority.

You may obtain and pay for your own specialist report if you wish, but it is unlikely that you will be reimbursed the fee paid to the specialist for such reports. You must send us a full copy of all reports you obtain, without delay.

Loss of earnings and special expenses

The Authority's response should include any documents about your loss of earnings and special expenses you have already supplied.



Tell us immediately if any evidence is missing and, if possible, provide it.



Check any calculations.

If the bundle does not contain an estimate or calculation of your loss, you must send us and the Authority a summary of your claim which sets out the details of what you are claiming.

You must provide a documentary evidence of both actual and potential loss of earnings e.g. letters from the Inland Revenue, tax returns and assessments, P60s or P45s, pay slips, accounts.

The loss of earnings you claim will be reduced if you receive:

- social security benefits or other benefits
- employer's sick pay
- employer's ill health, injury benefits, or death pensions or gratuities
- insurance payments
- post incident earnings from employment.

The Tribunal will need to have details and evidence of these items in the summary of your claim.

Fatal cases

You may find it helpful to read the Authority's 'guide to compensation after death' available from the Authority or their website at www.cica.gov.uk.

The Authority's response will include any documents you have given the Authority about the deceased person's loss of earnings, dependency or other compensation issues:



You need to tell us immediately if any evidence is missing.



Check any calculations.

If you are claiming for dependency or loss of earnings you must send us a summary of your claim as soon as possible. Paragraph 37-44 of the Scheme give details of what you can claim.

You must provide documentary evidence of any loss of earnings or special expenses as set out in the previous section on Loss of Earnings and Special Expenses.

Any loss of earnings or dependency award will be reduced if you or the deceased received:

- social security benefits or other benefits
- employer's sick pay
- employer's ill health, injury benefits, or death pensions or gratuities
- insurance payments
- post incidents earnings from employment

The Tribunal will need to see evidence of these items.

Loss of earnings, dependency or any other award made in a fatal case may be reduced if the deceased acted in any of the ways set out on page 6 (Delay, Non-co-operation, Conduct, Character).

Appeals decided without a hearing

If the Tribunal Judge or Member decides that your appeal can be decided without a hearing, we will write to tell you.

When the time for you to provide any more documents has passed (1 month from the date of the Authority's response or any extension we have granted - see page 10 of this booklet), we will refer your appeal to a Tribunal Judge or Member.

The Tribunal Judge or Member will make a decision on the basis of all the documents you and the Authority have provided.

We will write to tell you the decision. In most cases, you will have the right to apply for it to be reconsidered at an oral hearing. We will tell you if this right applies in your case.

Arranging your hearing

We will tell you if the Tribunal decides your appeal should have a hearing. Then, when the time for you to send us any more documents has passed (1 month from the date of the Authority's response or any extension we have granted -see page 10 of this booklet) we will fix a hearing date.

Before we fix a date for your hearing, we will ask you to tell us any dates on which you will not be available. After a date has been fixed, the hearing will be postponed only in exceptional circumstances.

We give you at least two weeks notice of your hearing unless you agree to less or your appeal is urgent.



Tell us now if you are making a civil claim or wish to withdraw your appeal (see the sections Civil Claims and Withdrawing later in this booklet).

Arranging your hearing - continued

We ask you to confirm in writing that you will attend. The Tribunal will normally decide the case in your absence if you do not attend the hearing without providing a good reason beforehand.

The hearing will normally take place at the venue which is most convenient to those attending.

The venue is usually a tribunal hearing room which is less formal than a court room. We will send you a DVD showing what happens at the hearing. You can also view this on our website.

We will send you a map showing how to get there and details of the expenses you can claim.



Allow plenty of time for travel and try to keep the whole day free.

We try to ensure that your hearing starts on time. Occasionally a hearing might start later than scheduled but we try to keep waiting time as short as possible.

Let us know beforehand if you will have to leave the hearing centre by a particular time e.g. if you have children to collect.

There are no childcare facilities at any hearing centre.

The hearing bundle

You will already have a copy of the Authority's response. We will send you a copy of any further documents received by the Tribunal before the hearing. You should add these to the Authority's response to form the hearing bundle. The Authority and the hearing panel will also have a copy of the hearing bundle.



Read the bundle before the hearing.



Make sure you understand the issues to be raised at your hearing.



Bring your bundle with you to the hearing.

You will need to look at the documents in the bundle at the hearing.

The Tribunal will decide your case on the documents in the bundle and on any other evidence given at the hearing.

The hearing day

When you arrive

You must arrive at least 30 minutes before your hearing is due to start. If you are delayed unexpectedly please phone us at our office (see page 27).

Our receptionist will welcome you and pay any reasonable expenses. You will be asked to sit in the waiting area. You will be told of any reasons for a delay in the start time of your hearing.

As soon as your case is ready to be heard you will be shown into the hearing room.

About the hearing

The length of a hearing varies depending on the issues. The average hearing time is about one hour.

The hearing is private unless you ask in advance for the hearing to be public and the Tribunal agrees.

You can attend the hearing on your own or be represented by a lawyer, a union representative, someone from Victim Support or similar organisation, or a friend or family member.

You can bring a friend, family member or someone from an organisation such as Victim Support to sit with you for moral support. If you have any disability or need a helper they will be able to sit with you.

The Hearing is a tribunal not a court of law. We try to keep the hearing as informal as possible, but it is still a serious and important occasion with evidence being given.

Who will be at the hearing

There will be a panel of two or three Tribunal Judges or Members.

The Authority's representative and sometimes a Tribunal hearing clerk will also be in the room. The Authority's representative is there to put the Authority's case to the Tribunal and to help the Tribunal reach a fair and just decision.

Witnesses

The Authority's response names the witnesses who the Authority consider can help the Tribunal reach a decision. We will invite these witnesses to attend the hearing.



If there are other witnesses who you believe can help your case it is important that you invite the witness to attend the hearing.

If they are able to give relevant evidence, we will pay their reasonable expenses from within the UK.

A police officer who knows about your case will usually be invited if there is an issue on which the police can help the Tribunal.

Alleged offender

One of the witnesses to be invited may be the convicted or alleged offender. This is because it is only fair to give them the chance to tell the Tribunal their account of what happened.

Alleged offenders do not often attend. They are told the date, time and place of the Tribunal **only** if they tell us in writing they intend to come.

They do not get a copy of your hearing bundle.

The hearing day - continued



If facing the person who caused you the injury will upset you, please let us know as soon as possible.

We will try to arrange for the hearing to take place without you meeting the alleged offender.

How the hearing will start

The hearing panel will welcome you and explain what will happen.



Do ask if you are unsure about anything.



Do say if you want a short break at any time.

The Chairman will identify the issues which the Tribunal needs to decide in your appeal. The summary in your bundle shows the issues that the Authority considers to be relevant.

The hearing panel have the same bundle as you and will have read it before the hearing. It may not therefore be necessary to go into full details about the incident itself.

The Tribunal can take into account anything that emerges during the hearing, even if it is not mentioned in the bundle.

The hearing panel will make personal notes of the oral evidence to help them when they make their decision. There is no official written or electronic record of the hearing.

Giving evidence

You may be asked questions about the incident and your injuries by the Authority's representative, your representative and the hearing panel.

It is important that the Tribunal have the full facts in order to reach a fair and sound decision based on all the evidence. You may find the questioning direct and sometimes probing but it should always be courteous and sensitive.

If you are claiming for scarring the hearing panel will need to look at your scars. They will do this in a sensitive and considerate way, in private if necessary.



Tell us before the hearing if you would prefer your scars to be seen only by a male or female Tribunal Member.

You can stay in the hearing room throughout the hearing. Any other witnesses will be in the hearing room when giving their own evidence, then they will usually leave. Witnesses may be questioned by the Authority's representative, by you or your representative, or by the Tribunal.



Tell the hearing panel if you do not want to stay in the room with a witness who is the alleged offender.

The Tribunal is not bound by the strict rules of evidence as in a court. Witnesses, including police officers, may be asked to give their opinion or hearsay evidence. (Hearsay evidence is evidence of a fact that the witness has heard said by someone else).

Summing up and decision

At the end of the hearing the Authority's representative will sum up the Authority's case. You will then have the opportunity to make any final points. Where necessary, the hearing panel will help you by identifying any outstanding important points.

The hearing panel will consider their decision in private. They will usually tell you their decision and a summary of their reasons on the day. They will also prepare a Decision Notice which confirms the decision but does not give detailed reasons. This is usually provided on the day, but may in some cases be sent to you a few days later.

If you would like the Tribunal's decision explained in writing, you must contact us within 1 month from the date of the decision at the address on page 27.

Except in rare circumstances, set out in legislation, the decision of the Tribunal is final.

Expenses for attending hearings

We will pay your reasonable costs for:

- public transport (unless travel by car has been agreed with us)
- subsistence
- loss of earnings
- babysitting/care

We will not pay for:

- fees or expenses for a legal or other representative
- attendance of witnesses from abroad
- attendance of any witness other than those who give or would have been able to give relevant evidence
- expenses of anyone coming with you for moral support (unless previously agreed with us)



Contact us well before the hearing if:

- you need to travel by plane, taxi or private car
- you need a rail warrant (ticket)
- you are travelling from Northern Ireland
- you are currently receive state benefit and need a rail ticket or an advance for expenses
- you need to stay in a hotel overnight

We will send detailed guidance on claiming expenses with your hearing invitation.



Please read this carefully.

Paying hearing expenses

The Tribunal clerk will help you fill in your claim form and tell you about subsistence and motor vehicle mileage rates.

We aim to pay expenses within 28 days of your hearing.

You must produce receipts and tickets for your travel and details of mileage if you travel by motor vehicle.

After the decision

Adjourning your hearing

If the Tribunal agrees that you qualify for an award but has to adjourn your case for further medical or other evidence, you can ask for an interim payment.

Where your appeal is adjourned for the level of compensation to be assessed, the Tribunal may decide to refer it back to one Tribunal Member for a decision without the need for a further hearing. If you disagree with the decision made by the Tribunal Member, you can apply for it to be re-considered at a further hearing.

Making payment to you

The Authority is responsible for paying awards. If the Tribunal makes an award the Authority will ask you to sign a form of acceptance.

Compensation will be reduced if you receive court or other compensation for the same injury.

Interim payments

You can write to us to request an interim payment at any time after your appeal has been admitted. A Tribunal Judge or Member will consider such requests.

Civil Claims

Tell us as soon as possible if you have started a civil claim for the same injury. We will then consider whether or not your appeal should go ahead before the civil claim is decided.

Withdrawing your appeal

You can ask to withdraw your appeal at any time before the start of your hearing. You must make this request to us in writing. The Tribunal's consent is required before an appeal can be withdrawn.

Medically re-opening your case

If, after the Tribunal has made their decision, there is a material change in your medical condition (which is due to the original injury) you may apply to the Authority for your claim to be re-opened.

A case will not be re-opened more than two years after the Tribunal's decision unless the renewed application can be considered without a need for further extensive enquiries.

Judicial Review

If you consider that the Tribunal's final decision was wrong in law you may seek Judicial Review of the decision by applying to the Upper Tribunal (England & Wales) or the Outer House of the Court of Session (Scotland).

Strict time limits usually apply.

If you wish to consider making an application for judicial review:-

- you may first find it helpful to seek prompt independent legal advice
- you should make prompt application to the Tribunal for a full Statement of Reasons for the decision, and
- you should refer to the guidance on our website under practice statements and protocols or by request from our office.

Making a complaint

If you are unhappy with our service please contact us and explain why.

Whenever possible a manager or member of staff will talk to you about your complaint and try to resolve it immediately. If this is not possible he or she will respond to you in full within 10 working days and will tell you who to contact if you are not satisfied with our response.

How to contact us

Write to:

The Tribunals Service
Criminal Injuries Compensation
Wellington House
134-136 Wellington Street
Glasgow
G2 2XL

DX no: DX 551940 Glasgow 42

Tel: 0141 354 8555

Fax: 0141 354 8556

E-mail: enquiries-cicap@tribunals.gsi.gov.uk

Our office is open from 8.30am to 5pm



Remember to give your case reference number when you contact us.

Our website: www.cicap.gov.uk contains:

- the Criminal Injuries Compensation Scheme and the Authority's Guides to the Scheme;
- Tribunal guidance and Rules;
- Practice and Case Management Directions, Statements and Guidance
- details of hearing venues

How to contact the Authority

The Criminal Injuries Compensation Authority

Tay House
300 Bath Street
Glasgow G2 4LN

Tel: 0800 358 3601

Fax: 0141 331 2287

DX: GW 379 Glasgow

The Authority's Website: www.cica.gov.uk provides information about the Scheme